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Right to privacy and surveillance in the Library services

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Abstract: Right to privacy is necessary for the users to inquire, access, read and discuss the information in the library. The information available in the digital format via network. When the users search information from the net, the personal data of the users accessed by the internet provider. Whenever personal data accessed or provided to third parties, the users are surveilled by the third party. The user's privacy includes freedom of expression. The surveillance acts both, positively and negatively. The student get safety from the unknown person against loss of materials and any problem at the time of using library, at the same it creates problem also. The data are gathered through CCTV camera; may be misused in different situations. Surveillance and interception used by the government and private parties are threatening to user's free access to information, inquiry, information communication and idea generation.

Keywords: Right to Privacy, Surveillance, Library, Communication Privacy, Information Privacy.

Introduction: Right to privacy play very important role in modern days. The right to be let alone is a significant means to augment the growth and expression of human personality. When the person navigating through the world wide web generating large amount of personal data. It is difficult to protect the personal data in the current scenario. The privacy may be classified in to physical privacy, communication privacy and information privacy. The right to privacy recognized as a human right. Human Rights are codified in International law by means of international and regional conventions. The library is service oriented institution, where the users access the information from printed and non-printed materials. When the users access information the personal data collected for the administration purpose, the collected personal data might be misused by the administrative staffs in the way of providing personal data to third parties. The information interception also used to access communication information. The intercepted information might be accessed when the information is necessary for the purpose of the national security otherwise it will be interference of personal communication. The surveillance might be classified into public place surveillance, bio-surveillance, airport surveillance, customer surveillance in the mall and others.

Types of Privacy:

Physical Privacy: When the users access the library the CCTV camera recording the movements of the users. The physical recording used some other purpose and it violates the privacy rights of the user.

Communication Privacy: Due to the advancement of technology the communication through telecommunication and online has increased tremendously. The same time the interception of communication also increased manifold. The interaction of communication is required because of national security. The government has to balance the both like privacy and security, for which the government has to enact the act for balancing the both.

Information Privacy: Nowadays the government try govern through technology, the personal data used for the service provided to the public. The data may be the personal information, financial information, health related information and etc. Here the collected information /data should be protected in the proper manner otherwise the personal information might be misused.

Surveillance:

Surveillance “involves assorted forms of monitoring, typically for the ultimate purpose of intervening in the world” (Haggerty and Samatas 2010:2)

Privacy in the international law: The right to privacy has been recognized and accepted the world over as an essential human right. The privacy is an important component of human personality. Human rights are codified in international law by means of international and regional convention.

The right to privacy in modern human rights jurisprudence emerges in 1948 in article 12 of the Universal Declaration of Human Rights (UDHR) which states:

“No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attack upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks”.

Article 17 the International Covenant on Civil and Political Rights (ICCPR) has reiterated the aforesaid position of privacy as contained in the UDHR as a right that merits protection of law by stating:

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.

In India There is no special Act for protecting privacy right. The Constitution of India, derives its ambiguous basis from the right to life and personal liberty, as enshrined in article 21, thereby being interpreted as an unarticulated fundamental right.

Article 21. Protection of life and personal liberty. - No person shall be deprived of his life or personal liberty except according to procedure established by law.

The Supreme Court for the first time accepted the notion of privacy in its decision by a six-judge Bench in *Kharak Singh v State of U.P.* (1964).

The Supreme Court Judgement on *Justice Puttasamy (Retd) and Anr vs Union of India and Ors* unanimously held that the right to privacy is an intrinsic part of right to life and personal liberty under Article 21 of the Indian Constitution.

Privacy in the Libraries:

In the traditional library, the library maintains the privacy of the library users. The personal data of the users protected without any third party intervention. The advancement of technology implication for the library and information services, library users. The personal data collected at

the time of service provided threatens individual user's privacy and has other legal and social consequences. The individual users restrict their information search when they come to know their personal data collected and surveilled, these leads to individual's rights to freedom of speech and freedom of expression. The surveillance, collection of personal data and interception of electronic communication restrict the usage of information, freedom of expression and freedom of speech. In the year 2013 and 2014 United Nations General Assembly adopted resolutions on the "Right to privacy in the digital age", calling all countries to "respect and protect the right to privacy, including in the context of digital communication."

IFLA's Manifesto on Internet states that "Libraries and information services... have a responsibility to ... strive to ensure the privacy of their user, and that the resources and services that they use remain confidential".

IFLA Code of Ethics recognize the personal privacy, protection of personal data, and confidentiality in the relationship between the user and library or information service as core principle

The readers need right to privacy for read, deliberate and develop innovative ideas and views free from unwanted surveillance by the third party or the government is essential for the intellectual freedom. Privacy is required for free inquest in the library because it helps library users to select, access and deliberate information and concepts without fear of embarrassment. In the cloud computing the collected data area stored in the cloud there may be chances to access the data by their parties. When the users accessing the information from the internet or accessing the library service through mobile service there may be a chances to track the activities of the users. When the library making arrangement to access information from the vendor the library has bargaining power, where the librarian ask to collect minimum personal data for accessing the information and ensure the protection of user's privacy.

ALA Code of Ethics expressed that the librarian and library workers have an ethical obligation to protect personal data or the usage regards of the users and to maintain an environment which is respectful and protective of the user's privacy.

The right to privacy of the users with respect to open inquiry without having the subjects of one's interest examined or scrutinized by others and also protect the personal information like phone number, email, circulation records, search history of databases and register maintain for accessing internet facilities. Lack of privacy restrict the user access to information. The librarian should support user's rights to access information without any disturbance for their rights, which helps to flourish the library usage. For the success of democracy, the user's needs to access the information without any restriction and also allow to express their ideas and views. The person who is reading a book on terrorism is not a not terrorist, the same way the users' needs freedom to refer what they want where the intellectual freedom may flourish and new and innovative ideas will come up. When there is surveillance or interception of information communication the users cannot use the library freely.

Conclusion:

The right to privacy helps to promote freedom of expression and freedom of speech. When the users access information freely without any surveillance or interception of communication it helps to flourish library usage. The free exchange of ideas promotes intellectual's environment. Democracy needs free exchange of ideas. The librarian and library staffs needs to protect user's privacy.

Reference:

- 1.<http://ifla.org/publication/node/10056> retrieved on 22/05/2019
- 2.<http://www.ala.org/advacacy/privacy> retrieved on 26/05/2019
- 3.<https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> retrieved on 16/05/2019
- 4.<https://www.un.org/en/universal-declaration-human-rights/> retrieved on 10/05/2019
- 5.<https://indiacode.nic.in/> retrieved on 12/05/2019
6. Kharak Singh v State of U.P.AIR 1963 SC 1295: (1964) 1 SCR 332.
7. Justice Puttasamy (Retd) and Anr vs Union of India and Ors
- 7.Nayar, Pramod K (2015). Citizenship and Identity in the age of Surveillance. Delhi: Cambridge University Press.
- 8.Taneja, Rishika and Sidhant Kumar (2014). Privacy Law: Principles, Injunctions and Compensation. Lucknow: Eastern Book Company.